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UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA

In Re:)	Chapter 11
)	
BCE WEST, L.P., et al.,)	Case Nos. 98-12547 through
)	98-12570-ECF-CGC
)	
Debtors.)	Jointly Administered
)	
EID: 38-3196719)	DEBTORS' MOTION FOR
)	ALLOWANCE AND PAYMENT OF
)	ADMINISTRATIVE CLAIM

BCE West, L.P., Boston Chicken, Inc., Mayfair Partners, L.P., BC Great Lakes, L.L.C.,
BC GoldenGate, L.L.C., B.C.B.M. Southwest, L.P., BC Boston, L.P., BC Superior, L.L.C., BC
Heartland, L.L.C., BC Tri-States, L.L.C., Finest Foodservice, L.L.C., BC New York, L.L.C.,
R&A Food Services, L.P., P&L Food Services, L.L.C., Mid-Atlantic Restaurant Systems, Inc.,
BCI Massachusetts, Inc., BCI Southwest, Inc., BC Real Estate Investments, Inc., BCI Mayfair,
Inc., Progressive Food Concepts, Inc., BCI R&A, Inc., BCI West, Inc., BCI Acquisition Sub,
L.L.C., and Buffalo P&L Food Services, Inc., debtors and debtors in possession (the "Debtors")

1 request the Court to enter an order pursuant to Section 503 of the Bankruptcy Code allowing an
2 administrative claim for Main & Main Real Estate, Inc. and authorizing payment of the
3 administrative claim. In support of this Motion, Debtors state as follows:

4 **I. JURISDICTION**

5 1. Pursuant to 28 U.S.C. §§ 1334 and 157, the Court has jurisdiction to hear this
6 Motion. Pursuant to 28 U.S.C. § 157(b)(2)(B) and (O), this Motion presents a core proceeding.
7 Authority to grant the relief requested is provided by 11 U.S.C. § 503.
8

9 **II. BACKGROUND**

10 2. On October 5, 1998 (the "Petition Date"), the Debtors filed voluntary petitions for
11 relief under Chapter 11, Title 11 of the United States Code (the "Bankruptcy Code"), in the
12 United States Bankruptcy Court for the District of Arizona (the "Court"). Pursuant to §§ 1107(a)
13 and 1108 of the Bankruptcy Code, the Debtors are operating their businesses and managing their
14 property as debtors in possession.
15

16 **III. RELIEF REQUESTED**

17 3. By this Motion, Debtors seek an Order from the Court allowing an administrative
18 claim for Main & Main Real Estate, Inc. in the amount of \$15,000 and authorizing payment of
19 the administrative claim as described herein.

20 4. On June 29, 1999, this Court entered an order on the Debtors' Motion for
21 Authority to Sublease Space associated with Store #1962 [DE 987]. Pursuant to that order
22 Debtor BC GoldenGate, L.L.C. ("GoldenGate") was authorized to sublease to Aaron Brothers,
23 approximately 6,500 feet of unused space associated with Store #1962 located at 2431 San
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1 Ramon Valley Boulevard, San Ramon, California on an “As Is” basis at an annual rent of not less
2 than \$137,298. The commencement date for the sublease agreement was August 26,1999.

3 5. Although the approved sublease transaction contemplated payment of
4 commissions to the brokers for both Aaron Brothers and the Debtor GoldenGate, the June 29
5 order did not provide approval for GoldenGate’s obligations to reimburse either broker.
6

7 6. On July 2, 1999, this Court entered an Order on Payment of Commissions on
8 Sublease Space Associated with Store #1962 [DE 1001] that authorized and approved the
9 payment of the commissions on the sublease owed to Aaron Brothers’ broker in an approximate
10 amount of \$9,750 upon completion of the sublease transaction.

11 7. However, the July 2 order did not provide approval for GoldenGate to pay
12 commissions in the amount of \$15,000 to its real estate broker, Main & Main Real Estate, Inc.
13 GoldenGate’s obligation to pay the Main & Main commission does not become a firm obligation
14 until the first payment of rent from the sublessee 90 days after the commencement date of the
15 sublease.
16

17 8. 11 U.S.C. § 503 allows for the payment of administrative expenses, including
18 “actual, necessary costs and expenses of preserving the estate, including wages, salaries, or
19 commissions for services rendered after the commencement of the case.” 11 U.S.C. §
20 503(b)(1)(A). GoldenGate’s utilization of Main & Main Real Estate, Inc. for services related to
21 subleasing space associated with Store #1962 provides an independent basis for the relief sought
22 herein.
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9. At the time the sublease was considered and approved on June 29, the facts associated with the commission obligations were disclosed to the Court and the parties in interest attending the hearing.

WHEREFORE, Debtor GoldenGate respectfully requests that this Court enter an Order pursuant to Section 503 of the Bankruptcy Code allowing the administrative claim of Main & Main Real Estate, Inc. in the amount of \$15,000 and authorizing GoldenGate to pay the same upon the occurrence of the following two events: (1) the first payment of rent from the sublessee 90 days after the commencement date of the sublease and (2) the entry of a Court order authorizing payment of the administrative claim of Main & Main Real Estate, Inc. Debtor GoldenGate also requests such other and further relief as is deemed just and proper.

Respectfully submitted this 27th day of September, 1999.

DEBTORS AND DEBTORS IN POSSESSION

By: /s/ H. Rey Stroube, III

One of their Attorneys

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9 **CERTIFICATE OF SERVICE**

10 The undersigned hereby certifies that on September 27 or 28, 1999, the foregoing
11 document was served by e-mail or by first class United States Mail, postage prepaid, on all
12 parties on the Master Service List #13 dated September 23, 1999.

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_____/s/ Laura DeWitt